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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/623,391	07/18/2003	Jonathan E. Ricketts	14832	4623
28813	7590	09/12/2005	EXAMINER	
CNH AMERICA LLC INTELLECTUAL PROPERTY LAW DEPARTMENT PO BOX 1895, M.S. 641 NEW HOLLAND, PA 17557			VERDIER, CHRISTOPHER M	
			ART UNIT	PAPER NUMBER
			3745	

DATE MAILED: 09/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b> 10/623,391	<b>Applicant(s)</b> RICKETTS ET AL.	
	<b>Examiner</b> Christopher Verdier	<b>Art Unit</b> 3745	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-19 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 7-18-03 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>7-18-03</u> . | 6) <input type="checkbox"/> Other: ____.  |

***Specification***

The disclosure is objected to because of the following informality: Appropriate correction is required.

On page 1, line 1, “Description” is superfluous and should be deleted.

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required:

Claims 6, 12, and 19 recite “at least the grooves of a center one of the mounting members being adapted for receiving and holding alternating ones of the blades extending in opposite directions.” There is no antecedent basis in the specification for the underlined limitation.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Yamamoto 4,014,625 (figures 2 and 15). Note the cross flow fan comprising a plurality of unnumbered elongate fan blades supported in an axial cylindrical pattern about a rotational axis a of the fan by disk shape fan blade mounting members f located adjacent axial ends of the blades and rotatable about the axis, the fan blades having radial outer end portions near  $\beta 2$  defining an outer

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diameter of the fan, radial inner end portions near  $\beta 1$  opposite the radial outer end portions, and curved intermediate portions between the radial end portions, respectively, wherein each of the fan blades is oriented such that the radial outer end portion is at about a 25 to 45 degree angle (which includes a 28 degree angle) to a line tangent to the fan diameter at the radial outer end portion and the radial inner end is directed radially inwardly directly toward the axis, with the radial inner end oriented such that a line tangent thereto passes through the axis a at center O.

The recitation in claim 1, lines 1-2 of "for a cleaning system of an agricultural combine", and the recitation in claim 7, lines 1-3 of "for an agricultural combine for generating and directing a flow of air to a cleaning system of the combine" are recitations of intended use. A recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

Claim 1 is also rejected under 35 U.S.C. 102(b) as being anticipated by Kinsworthy 3,251,540. Note the cross flow fan comprising a plurality of elongate fan blades 22 supported in an axial cylindrical pattern about an unnumbered rotational axis of the fan by disk shape fan blade mounting members 65 located adjacent axial ends of the blades and rotatable about the axis, the fan blades having radial outer end portions 76 defining an outer diameter of the fan, radial inner end portions 78 opposite the radial outer end portions, and curved intermediate portions between the radial end portions, respectively, wherein each of the fan blades is oriented such that the radial outer end portion is at about a 25 to 30 degree angle (which includes a 28 degree angle) to a line tangent to the fan diameter at the radial outer end portion and the radial

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inner end is directed radially inwardly directly toward the axis. The recitation in claim 1, lines 1-2 of “for a cleaning system of an agricultural combine” is a recitation of intended use as set forth above.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 2-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over either (Yamamoto 4,014,625) or (Kinsworthy 3,251,540). Yamamoto and Kinsworthy disclose cross flow fans substantially as claimed as set forth above including fan blades, but do not disclose that the radial outer end portions of adjacent ones of the fan blades are spaced apart by between about

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2.3 and 2.4 inches (claim 2), do not disclose that the radial inner end portions of adjacent ones of the fan blades are spaced apart by between about 1.6 and 1.7 inches (claim 3), do not disclose that each fan blade has an overall width as measured between the radial end portions thereof of between about 2.5 and 2.6 inches (claim 4), and do not disclose that the curved intermediate portion of each of the fan blades have a radius of curvature of between about 2.0 and 2.1 inches (claim 5).

The recitation of the specific spacing between radial outer end portions of adjacent ones of the fan blades, the recitation of the specific spacing between the radial inner end portions of adjacent ones of the fan blades, the recitation of the specific fan blade overall width as measured between the radial end portions, and the recitation of the specific radius of curvature of the curved intermediate portion of each of the fan blades are deemed to be matters of choice in design. These blade parameters are known in the fan art to be result-effective variables which influence the fan performance and efficiency. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to select and optimize specific values for these blade parameters in the cross flow fans of either Yamamoto or Kinsworthy, such that the radial outer end portions of adjacent ones of the fan blades are spaced apart by between about 2.3 and 2.4 inches, such that the radial inner end portions of adjacent ones of the fan blades are spaced apart by between about 1.6 and 1.7 inches, such that each fan blade has an overall width as measured between the radial end portions thereof of between about 2.5 and 2.6 inches, and such that the curved intermediate portion of each of the fan blades have a radius of curvature of between about 2.0 and 2.1 inches, for the purpose of optimizing the fan performance and

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efficiency, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art (*In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980)), and since it has been held that discovering the optimum or workable ranges by routine experimentation is not inventive (*In re Aller*, 220 F.2d 454, 456, 105 USPQ 233, 235 (CCPA 1955)).

Claims 8-11 and 13-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yamamoto 4,014,625. Yamamoto discloses a cross flow fan substantially as claimed as set forth above including fan blades, but does not disclose that the radial outer end portions of adjacent ones of the fan blades are spaced apart by between about 2.3 and 2.4 inches (claims 8 and 15), does not disclose that the radial inner end portions of adjacent ones of the fan blades are spaced apart by between about 1.6 and 1.7 inches (claims 9 and 16), does not disclose that each fan blade has an overall width as measured between the radial end portions thereof of between about 2.5 and 2.6 inches (claims 10 and 17), does not disclose that the curved intermediate portion of each of the fan blades have a radius of curvature of between about 2.0 and 2.1 inches (claims 11 and 18), and does not disclose that the fan has a diameter of from about 15 to about 16 inches (claims 13 and 14).

The recitation of the specific spacing between radial outer end portions of adjacent ones of the fan blades, the recitation of the specific spacing between the radial inner end portions of adjacent ones of the fan blades, the recitation of the specific fan blade overall width as measured between the radial end portions, the recitation of the specific radius of curvature of the curved

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intermediate portion of each of the fan blades, and the recitation of the specific fan diameter are deemed to be matters of choice in design. These blade parameters are known in the fan art to be result-effective variables which influence the fan performance and efficiency. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to select and optimize specific values for these blade parameters in the cross flow fan of Yamamoto, such that the radial outer end portions of adjacent ones of the fan blades are spaced apart by between about 2.3 and 2.4 inches, such that the radial inner end portions of adjacent ones of the fan blades are spaced apart by between about 1.6 and 1.7 inches, such that each fan blade has an overall width as measured between the radial end portions thereof of between about 2.5 and 2.6 inches, such that the curved intermediate portion of each of the fan blades have a radius of curvature of between about 2.0 and 2.1 inches, and such that the fan has a diameter of between about 15 and 16 inches, for the purpose of optimizing the fan performance and efficiency, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art (*In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980)), and since it has been held that discovering the optimum or workable ranges by routine experimentation is not inventive (*In re Aller*, 220 F.2d 454, 456, 105 USPQ 233, 235 (CCPA 1955)). The recitation in claim 14, lines 1-3 of “for an agricultural combine for generating and directing a flow of air to a cleaning system of the combine” is a recitation of intended use as set forth above.

Claims 1 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Konno 5,827,046 in view of either (Yamamoto 4,014,625 or Kinsworthy 3,251,540). Konno (figures 1-



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2) discloses a cross flow fan 21 substantially as claimed comprising a plurality of elongate fan blades 24 supported in an axial cylindrical pattern about a rotational axis O of the fan by disk shape fan blade mounting members 22, 23, 25 located adjacent axial ends of the blades and rotatable about the axis, the fan blades having unnumbered radial outer end portions defining an outer diameter of the fan, and unnumbered radial inner end portions opposite the radial outer end portions, and curved intermediate portions between the radial end portions, respectively, with the radial inner ends being directed radially inwardly directly toward the axis, with the disk shape fan blade mounting members including axially facing curved grooves 22a, 25a for receiving and holding longitudinal ends of the fan blades, and with the grooves of all of the mounting members including a center one 25 of the mounting members being adapted for receiving and holding alternating ones of the blades extending in opposite directions. (Note that grooves 22a, 25a are capable of receiving and holding alternating ones of the blades extending in opposite directions and therefore perform this function). The recitation in claim 1, lines 1-2 of “for a cleaning system of an agricultural combine” is a recitation of intended use as set forth above.

However, Konno does not disclose that each of the fan blades is oriented such that the radial outer end portion is at 28 degree angle to a line tangent to the fan diameter at the radial outer end portion.

Yamamoto (figures 2 and 15) shows a cross flow fan comprising a plurality of unnumbered elongate fan blades supported in an axial cylindrical pattern about a rotational axis a of the fan by disk shape fan blade mounting members f located adjacent axial ends of the blades

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and rotatable about the axis, the fan blades having radial outer end portions near  $\beta 2$  defining an outer diameter of the fan, radial inner end portions near  $\beta 1$  opposite the radial outer end portions, and curved intermediate portions between the radial end portions, respectively, wherein each of the fan blades is oriented such that the radial outer end portion is at about a 25 to 45 degree angle (which includes a 28 degree angle) to a line tangent to the fan diameter at the radial outer end portion, for the purpose of reducing vortex noise.

Kinsworthy shows a cross flow fan comprising a plurality of elongate fan blades 22 supported in an axial cylindrical pattern about an unnumbered rotational axis of the fan by disk shape fan blade mounting members 65 located adjacent axial ends of the blades and rotatable about the axis, the fan blades having radial outer end portions 76 defining an outer diameter of the fan, radial inner end portions 78 opposite the radial outer end portions, and curved intermediate portions between the radial end portions, respectively, wherein each of the fan blades is oriented such that the radial outer end portion is at about a 25 to 30 degree angle (which includes a 28 degree angle) to a line tangent to the fan diameter at the radial outer end portion, for the purpose of providing for maximum scooping action to draw air inside the fan and to provide smooth outward flow from the fan in the opposite direction.

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to form the fan of Konno such that each of the fan blades is oriented such that the radial outer end portion is at 28 degree angle to a line tangent to the fan diameter at the radial outer end portion, as taught by either Yamamoto or Kinsworthy.

Claims 7, 12, 14, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Konno 5,827,046 in view of Yamamoto 4,014,625. Konno (figures 1-2) discloses a cross flow fan 21 substantially as claimed comprising a plurality of elongate fan blades 24 supported in an axial cylindrical pattern about a rotational axis O of the fan by disk shape fan blade mounting members 22, 23, 25 located adjacent axial ends of the blades and rotatable about the axis, the fan blades having unnumbered radial outer end portions defining an outer diameter of the fan, and unnumbered radial inner end portions opposite the radial outer end portions, and curved intermediate portions between the radial end portions, respectively, with the radial inner ends being directed radially inwardly directly toward the axis, with the disk shape fan blade mounting members including axially facing curved grooves 22a, 25a for receiving and holding longitudinal ends of the fan blades, and with the grooves of all of the mounting members including a center one 25 of the mounting members being adapted for receiving and holding alternating ones of the blades extending in opposite directions. (Note that grooves 22a, 25a are capable of receiving and holding alternating ones of the blades extending in opposite directions and therefore perform this function). The recitation in claim 7, lines 1-3 of “for an agricultural combine for generating and directing a flow of air to a cleaning system of the combine” and the recitation in claim 14, lines 1-3 of “for an agricultural combine for generating and directing a flow of air to a cleaning system of the combine” are recitations of intended use as set forth above.

However, Konno does not disclose that each of the fan blades is oriented such that the radial outer end portion is at 28 degree angle to a line tangent to the fan diameter at the radial outer end portion and such that the radial inner end portion is oriented such that a line tangent

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thereto passes through the axis (claims 7 and 14), and does not disclose that the fan has a diameter of between about 15 and 16 inches (claim 14).

Yamamoto (figures 2 and 15) shows a cross flow fan comprising a plurality of unnumbered elongate fan blades supported in an axial cylindrical pattern about a rotational axis  $a$  of the fan by disk shape fan blade mounting members  $f$  located adjacent axial ends of the blades and rotatable about the axis, the fan blades having radial outer end portions near  $\beta 2$  defining an outer diameter of the fan, radial inner end portions near  $\beta 1$  opposite the radial outer end portions, and curved intermediate portions between the radial end portions, respectively, wherein each of the fan blades is oriented such that the radial outer end portion is at about a 25 to 45 degree angle (which includes a 28 degree angle) to a line tangent to the fan diameter at the radial outer end portion and such that the radial inner end is oriented such that a line tangent thereto passes through the axis  $a$  at center  $O$ , for the purpose of reducing vortex noise.

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to form the fan of Konno such that each of the fan blades is oriented such that the radial outer end portion is at 28 degree angle to a line tangent to the fan diameter at the radial outer end portion, and such that the radial inner end portion is oriented such that a line tangent thereto passes through the axis, as taught by Yamamoto. The recitation in claim 14 of the fan having a diameter of between about 15 and 16 inches is a matter of choice in design. The fan diameter is known in the fan art to be a result-effective variable which influences the fan performance and efficiency. It would have been obvious at the time the invention was made

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to a person having ordinary skill in the art to select and optimize specific values for the fan blade diameter, such as between about 15 and 16 inches, for the purpose of optimizing the fan performance and efficiency, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art (*In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980)), and since it has been held that discovering the optimum or workable ranges by routine experimentation is not inventive (*In re Aller*, 220 F.2d 454, 456, 105 USPQ 233, 235 (CCPA 1955)).

#### ***Prior Art***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Japanese Patents 54-16709 and 6-23492 are cited to show cross flow fans with blades mounted in grooves of disk shape mounting members.

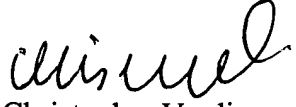
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher Verdier whose telephone number is (571) 272-4824. The examiner can normally be reached on Monday-Friday from 10:00-6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward K. Look can be reached on (571) 272-4820. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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C.V.  
August 24, 2005

  
Christopher Verdier  
Primary Examiner  
Art Unit 3745